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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules)
Concerning Toll Fraud)

CC Docket No. 93-292

To: The Commission

REPLY COMMENTS OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"), on behalf of itself and its members submits the following Reply Comments in response to the above-captioned Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") on December 2, 1993.

Statement of Interest

The RCA is an association comprised of small cellular operators providing service to rural America. The RCA's members serve over eighty licensed areas across the country covering approximately 6.5 million in population. The RCA and its members will be directly affected by the FCC's decisions with respect to cellular fraud. Unlike the larger cellular carriers, small cellular operators in rural areas do not have the ability to absorb the costs and spread the losses associated with cellular fraud. Losses due to cellular fraud are felt more deeply by small, rural cellular operators. Accordingly, in order to ensure the viability of small, rural cellular operators so that nationwide seamless cellular service can become a reality, it is important for the FCC to adopt rules and regulations that will effectively deter cellular fraud.

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I. The FCC's Technical Specifications Must Be Strengthened.

The RCA generally supports the recommendations made by the Cellular Telecommunications Industry Association ("CTIA") as set forth in CTIA's Comments filed with the Commission on January 14, 1994 with regard to the need to adopt tighter technical rules that would make tampering with a cellular phone's Electronic Serial Number ("ESN") a violation of the FCC's rules.¹

Specifically, the RCA believes that the Commission should adopt rules that establish technical specifications to prevent tampering with a mobile unit's ESN. In Revision of Part 22 of the Commission's Rules Governing the Public Mobile Service, Notice of Proposed Rulemaking, 7 FCC Rcd 3658, 3741 (1992) the Commission proposed rules which would require each mobile unit to have a unique ESN that "must be factory set, and must not be alterable, transferable, removable or otherwise able to be manipulated in the field." Also, the proposed rules would require, among other things, that cellular mobile equipment be designed so that any attempt to remove, tamper with, or change the ESN chip, its logic system or firmware (as originally programmed by the manufacturer) render the mobile unit inoperative. The proposed rules, if adopted, would assist in protecting cellular systems from fraudulent access by making it difficult, if not impossible, to gain access to the cellular system through the mobile phone unit. Accordingly, the RCA encourages the Commission to adopt these rules as expeditiously as possible.

¹ CTIA Comments pp. 4-8.

II. Cellular Fraud Perpetrators Should Be Criminally Prosecuted.

Notwithstanding the need to strengthen the technical specifications for cellular equipment, stronger measures are needed to punish those who violate the FCC's rules. The RCA believes that it is important for Congress and state legislators to pass legislation to make altering cellular equipment for the purpose of perpetuating cellular access fraud a crime. The RCA encourages the Commission to work with these legislative bodies to enact laws that would permit prosecution of anyone who intentionally removes or alters the ESN of a cellular mobile unit in violation of the Commission's rules.

Small, rural cellular carriers need the help of the FCC and Congress to combat cellular fraud so that the public is assured the provision of nationwide seamless cellular service. The preventive measures set forth above will serve the public interest by making those perpetuating the fraud responsible for their actions.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

By: David L. Jones / CDB

**David L. Jones, Chairman
Government and Industry Affairs Committee**

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February 10, 1994

Certificate of Service

I, Margaret D. Nyland, of Kraskin & Associates, 2120 L Street, NW, Suite 810, Washington, DC, 20037, hereby certify that a copy of the foregoing Reply Comments of Rural Cellular Association were served on the 10th day of February, 1994, by first class U.S. mail, postage prepaid, to the following:

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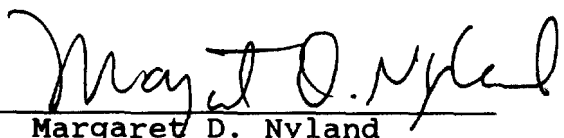
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